

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF VIRGINIA
Richmond Division**

DANIEL BLUE,

Petitioner,

v.

Civil Action No. **3:14CV01**

ERIC WILSON,

Respondent.

MEMORANDUM OPINION

Daniel Blue, a federal inmate proceeding *pro se*, submitted a 28 U.S.C. § 2241 petition (“§ 2241 Petition”). In his § 2241 Petition, Blue contends that his sentence is unconstitutional in light of the Supreme Court’s decision in *Alleyne v. United States*, 133 S. Ct. 2151 (2013).¹ On February 12, 2015, the Magistrate Judge issued a Report and Recommendation that recommended denying the § 2241 Petition for want of jurisdiction. The Court advised Blue that he could file objections within fourteen (14) days after the entry of the Report and Recommendation. More than fourteen (14) days have elapsed since the entry of the February 12, 2015 Report and Recommendation and Blue has not filed objections.

“The magistrate makes only a recommendation to this court. The recommendation has no presumptive weight, and the responsibility to make a final determination remains with this court.” *Estrada v. Witkowski*, 816 F. Supp. 408, 410 (D.S.C. 1993) (citing *Mathews v. Weber*, 423 U.S. 261, 270–71 (1976)). This Court “shall make a de novo determination of those portions of the report or specified proposed findings or recommendations to which objection is made.” 28 U.S.C. § 636(b)(1). “The filing of objections to a magistrate’s report enables the district judge to

¹ In *Alleyne*, the Supreme Court addressed a defendant’s mandatory minimum sentence of seven years for brandishing a firearm under 18 U.S.C. § 924(c)(1)(A)(ii). *Alleyne*, 133 S. Ct. at 2155–56. The Supreme Court held that, other than prior convictions, “facts that increase [statutory] mandatory minimum sentences must be submitted to the jury.” *Id.* at 2163.

focus attention on those issues—factual and legal—that are at the heart of the parties’ dispute.”

Thomas v. Arn, 474 U.S. 140, 147 (1985). In the absence of a specific written objection, this

Court may adopt a magistrate judge’s recommendation without conducting a de novo review.

See Diamond v. Colonial Life & Accident Ins. Co., 416 F.3d 310, 316 (4th Cir. 2005).

There being no objections, the Report and Recommendation will be ACCEPTED and ADOPTED. The action will be DISMISSED FOR WANT OF JURISDICTION.

An appropriate Final Order will accompany this Memorandum Opinion.

Date: 3-24-15
Richmond, Virginia

<p style="text-align: center;">_____ /s/ James R. Spencer Senior U. S. District Judge</p>
